

1  
2  
3  
4  
5  
6  
7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT TACOMA

10 RICKEY CALHOUN,

11 Plaintiff,

12 vs.

13 REGINA HOOK,

14 Defendant.

Case No. 08-5697-RJB-KLS

ORDER ADOPTING REPORT  
AND RECOMMENDATION

15 This matter comes before the Court on the Report and Recommendation of U.S. Magistrate Judge  
16 Karen L. Strombom. Dkt. 41. The Court has considered the Report and Recommendation, Plaintiff's  
17 objections (Dkt. 42), and the record herein.

18 The Report and Recommendation thoroughly discusses the facts and law at issue here, and it should  
19 be adopted. The defendant moves to dismiss the plaintiff's civil rights complaint on *res judicata* grounds  
20 and for failure to state a claim. Dkt. 41. While the Report does not recommend dismissal on *res judicata*  
21 grounds, the Report does recommend dismissing the plaintiff's case for failing to state a cognizable claim  
22 of retaliation against the defendant under 42 U.S.C. § 1983. *Id.* Furthermore, the Report recommends  
23 dismissing without leave to amend the plaintiff's complaint based on the incurable defects in the  
24 plaintiff's pleadings. *Id.*

25 Although the plaintiff filed an objection to the Report, his objections simply state his disagreement  
26 with the Report and raise no new legal arguments. Dkt. 42. Even though the plaintiff is litigating *pro se*,  
27 the court sees no utility in allowing the plaintiff to amend his complaint. *See Lucas v. Dep't of Corr.*, 66  
28 F.3d 245, 248 (9th Cir. 1995) (stating that unless it is absolutely clear that no amendment can cure the

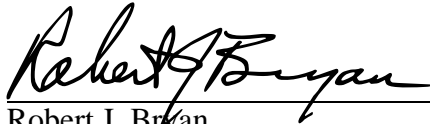
1 defect, a *pro se* litigant is entitled to notice of the complaint's deficiencies and an opportunity to amend  
2 prior to dismissal of the action.). The plaintiff has already amended his complaint once, and as the Report  
3 states, further amendment would not cure the failures of his pleading.  
4

5 The Court hereby **FINDS** and **ORDERS**:

- 6 1. The court adopts the Report and Recommendation (Dkt. 41); and  
7 2. Defendants' Motion for Judgment on the Pleadings (Dkt. 17) is **GRANTED**, and Plaintiff's  
8 Amended Complaint (Dkt. 9) is **DISMISSED**.

9 The Clerk is directed to send copies of this Order to plaintiff, all attorneys of record, and to the  
10 Hon. Karen L. Strombom.

11 DATED this 14<sup>th</sup> day of December, 2009.  
12

13   
14 Robert J. Bryan  
15 United States District Judge  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28